

FITISTICS, LLC,)
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 Plaintiff,)
)
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 v.) **Case No. 1:16-cv-00112-GBL-JPA**
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)
 ERIK B. CHERDAK, ESQ.,)
)
)
 Defendant.)

Michael C. Whitticar and NOVA IP Law, PLLC ("Defense Counsel") respectfully submit this brief in support of their motion to withdraw as counsel for Defendant and Counterclaim Plaintiff Erik B. Cherdak ("Mr. Cherdak").

Circumstances have arisen which make it unduly burdensome and unreasonably difficult for Defense Counsel to continue representing Mr. Cherdak, which would render it an unreasonable financial burden on Defense Counsel to continue representing Mr. Cherdak, which make it impossible for Defense Counsel to vigorously represent Mr. Cherdak's interests, and which have created conflicts of interest between Counsel and Mr. Cherdak.

No material prejudice will result to Mr. Cherdak because he is a law school graduate and trained attorney who has filed and litigated many cases in this Court and others. In fact, Mr. Cherdak initiated this case *pro se* before Defense Counsel was retained. Defense Counsel has thoroughly and repeatedly consulted with and advised Mr. Cherdak about every aspect of this

case and of his claims, and he has been fully advised as to Defense Counsel's analysis and opinions. Mr. Cherdak's pending bankruptcy petition gives him adequate time to retain and be represented by new counsel.

ARGUMENT

Rule 1.16(b)(6) permits an attorney to withdraw for good cause. VRPC Rule 1.16(b)(6).

Rule 1.16(b)(5) permits an attorney to withdraw if the representation will result in an unreasonable financial burden on the lawyer or if the representation has been rendered unreasonably difficult by the client. VRPC Rule 1.16(b)(5).

Rule 1.16(b)(3) permits an attorney to withdraw if a client insists upon pursuing an objective that the lawyer considers imprudent. VRPC Rule 1.16(b)(3).

A lawyer must withdraw if the client insists that the lawyer engage in conduct that is illegal or which violates the Rules of Professional conduct or other law. VRPC Rule 1:16, Comment 2.

Confidentiality obligations preclude Counsel from specifying the facts in support of this motion in further detail unless and until it is contested or disputed by Mr. Cherdak or by Plaintiff. VRPC Rule 1.6(b)(2).

No material prejudice will result to Mr. Cherdak because he is a law school graduate and trained attorney who has filed and litigated many cases in this Court and others. In fact, Mr. Cherdak initiated this case *pro se* before Defense Counsel was retained. Defense Counsel has thoroughly and repeatedly consulted with and advised Mr. Cherdak about every aspect of this case and of his claims, and he is fully familiar with Defense Counsel's advice, opinions and recommendations. Mr. Cherdak's pending bankruptcy petition gives him adequate time to retain and be represented by new counsel.

CONCLUSION

For the foregoing reasons, NOVA IP Law, PLLC and Michael C. Whitticar respectfully request leave to withdraw as counsel of record for Erik B. Cherdak.

Respectfully Submitted This 5th Day of December, 2016:

NOVA IP Law, PLLC and Michael C. Whitticar

By: /s/ Michael C. Whitticar

Michael C. Whitticar, Esq.

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Counsel for Defendant and Counterclaim Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on December 5th, 2016, I filed the foregoing *Brief in Support of Motion to Withdraw* with the Clerk of the Court through CM/ECF, which then served a Notice of Filing on:

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I further certify that I have served or am serving the foregoing *Brief in Support of Motion to Withdraw* on Erik B. Cherdak by e-mail, through the Secretary of the Commonwealth, and by private process server as follows:

Erik B. Cherdak
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Gaithersburg, MD. 20878
Email: ebcherdak@gmail.com
Defendant

/s/ Michael C. Whitticar
Michael C. Whitticar